

Exhibit D

McBay v. Harrison County, Mississippi, by and through its Board of Supervisors, et al
Videotaped deposition of: Morgan Lee Thompson

August 14, 2009

Page 1

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
Southern Division

GARY BRICE McBAY, *
Plaintiff, *
v. * Civil Action No.
HARRISON COUNTY, MISSISSIPPI * 1:07CV1205-LG-RHW
BY AND THROUGH ITS BOARD OF *
SUPERVISORS, et al., *
Defendants. *

COPY

VIDEO-RECORDED DEPOSITION OF

MORGAN THOMPSON

August 14, 2009

11:48 a.m. - 12:45 p.m.

Hopewell, Virginia

REPORTED BY: Kurt D. Hruneni, CCR-VA

McBay v. Harrison County, Mississippi, by and through its Board of Supervisors, et al
Videotaped deposition of: Morgan Lee Thompson

August 14, 2009

Page 9

1 A Yes, sir.

2 Q Did you request medical evaluation for
3 injuries that he received from the use of force or from
4 preexisting injuries?

5 A From the use of force.

6 Q All right. So then the use of force
7 resulted in Brice having facial swelling and bleeding
8 from the nose.

9 A Yes, sir.

10 Q And in this booking photograph, which is
11 page 3 of Exhibit 9, were those the injuries that Brice
12 received from the use of force by you?

13 A He didn't look like that when I left.

14 Q When you left?

15 A When I left for the shift that evening.

16 Q So he did not look like this after you used
17 excess -- or after you used force on Brice?

18 A Not the purple and -- no. No, sir.

19 Q Well, then how do you explain how he looks
20 there?

21 A It very well could have happened when we
22 got in the fight. But I did not see him look like
23 that, personally.

24 Q The report, on page 3 of Exhibit 7, says he
25 -- "McBay appeared intoxicated but able to follow

McBay v. Harrison County, Mississippi, by and through its Board of Supervisors, et al
Videotaped deposition of: Morgan Lee Thompson

August 14, 2009

Page 15

1 Q All right. And then that's when you had
2 problems and what happened -- you say one thing, the
3 report says another thing. Whatever happened, happened
4 in the shower.

5 A Uh-huh.

6 Q Outside of the camera.

7 A I was punched. Right.

8 Q Yeah.

9 A On the left side of the head.

10 Q And Brice was punched by you.

11 A After punching me twice. Yes.

12 Q And how many times did you punch him?

13 A Probably two or three times.

14 Q And then you brought him out of the
15 shower --

16 A Yes, sir.

17 Q -- after you punched him?

18 A Yes, sir.

19 Q And what did you do with him at that point?

20 A Put him in a holding cell.

21 Q Okay. Now, you would wear a hat while you
22 were on duty at times, wouldn't you?

23 A Yes, sir.

24 Q All right. What is the significance, for
25 you, when you have your hat on forward or when you turn

1 Q Without cameras.

2 A Yes, sir.

3 Q You hit Brice in the face. You admit that.

4 A Yes, sir.

5 Q You got teased by a lot of the other
6 booking officers about hitting inmates in the face;
7 didn't you?

8 A Yes, sir.

9 Q All right. The whole red light/green light
10 thing?

11 A Yes, sir.

12 Q Tell us about that.

13 A Simple. They would say red light's the
14 face, green light at the motor points. And they said I
15 always went on the red light. And McBay was a big
16 reason for that.

17 Q And the booking officers teased you because
18 of -- well, we've already covered that. You got teased
19 for hitting inmates in the face.

20 A Because I gave him a black eye.

21 Q And red light means anything that clothes
22 can cover, that you can't see. No. Wait. I think I
23 got that backwards.

24 Red light is when you hit them in the face
25 and it leaves a mark people can see; is that right?

1 A Yes.

2 Q And a green light is where you can hit
3 them, but it's hidden by the clothes and people can't
4 see it.

5 A Green light's all the approved motor
6 points, the things you're supposed to hit. Yeah.

7 Q Would green light be in the body, anything
8 that is covered?

9 A Yeah.

10 MR. BUCHANAN: All right. Mr. Thompson,
11 that's all the questions I have. Thank you for
12 your time.

13 THE VIDEOGRAPHER: Okay. The time is
14 approximately 12:34 p.m., and this concludes
15 tape --

16 MR. BUCHANAN: No --

17 MR. GEWIN: I don't have any questions,
18 but you might.

19 MR. BRENDEL: I do. I have some follow-
20 up questions. Is that what this tape involves?
21 Do you have enough room on this tape to continue?

22 THE VIDEOGRAPHER: Yes.

23 MR. BRENDEL: Ready?

24

25

McBay v. Harrison County, Mississippi, by and through its Board of Supervisors, et al
Videotaped deposition of: Morgan Lee Thompson

August 14, 2009

Page 47

1 tough he was, and what he was going to do to everybody
2 when he saw them on the street.

3 Q What did he smell like when you walked into
4 the shower area?

5 A Sweat, alcohol. Smelled pretty bad.

6 Q Okay. When you say "alcohol," what do you
7 mean by that?

8 A You could smell it on his breath. You
9 could smell the beer on his breath. You know, when
10 somebody drinks a lot, you can kind of smell it coming
11 off their body, to. It's a real sour, nasty smell.

12 Q Okay. So we're at the point now where he's
13 talking to you. What happens after that?

14 A In the shower?

15 Q Yes, sir.

16 A I told him to remove his clothes, started
17 the dress out procedure. And I turned around to look
18 away to get more clothes for him, and he hit me in the
19 side of the head.

20 Q You said you turned around and looked away.

21 A Yes.

22 Q Were you look --

23 A I was looking out the door away, I'm
24 assuming, to get clothes. I was thinking that we had
25 clothes up on the ledge. But I was trying to get a

McBay v. Harrison County, Mississippi, by and through its Board of Supervisors, et al
Videotaped deposition of: Morgan Lee Thompson

August 14, 2009

Page 48

1 jumpsuit for him.

2 And when I was turned away, he hit me, back
3 here around the jaw, right around my ear.

4 Q Had you done anything prior to that to
5 provoke him doing that?

6 A No. I mean, aside from just throwing
7 answers like, "Oh, listen to you. You've got little
8 man syndrome," and all that, you know. Just pretty
9 much blowing it off.

10 Q Is that the way you'd normally handle
11 inmates like that?

12 A Yeah.

13 Q Is that to kind of defuse the situation?

14 A Yeah.

15 Q And just so that we're clear. You were
16 looking in the opposite direction when you got hit in
17 the head; is that right?

18 A Yeah, yeah.

19 Q Okay. What part of the head did you get
20 hit on?

21 A He caught me once in the jaw, back here
22 around my ear.

23 Q Okay. What side are you referring to?

24 A On my left side.

25 Q On your left side. Was it with an open

McBay v. Harrison County, Mississippi, by and through its Board of Supervisors, et al
Videotaped deposition of: Morgan Lee Thompson

August 14, 2009

Page 51

1 like he was getting ready to do it. And because he had
2 already hit me twice, what's going to stop him from
3 hitting me a third, fourth, fifth time.

4 Q Were you looking for a fight when you went
5 into the shower?

6 A No.

7 Q Let me ask you a question. Was this near
8 the beginning or end of your shift? Do you remember?

9 A I don't recall.

10 Q Don't remember? Okay.

11 We saw on the tape earlier, before you went
12 into the shower, it looked like Mr. McBay had gone to
13 the ground. Do you remember pushing him to the ground?

14 A No, I don't. I don't. You know, when you
15 saw it at the beginning of the tape and then you saw it
16 happen again at the end of the tape, some people will
17 sit down to put their shoes on and take their shoes
18 off.

19 That could have been what he was doing. I
20 don't know. But no. I didn't put him on the ground.

21 Q I mean, did you punch him when he went down
22 on the ground? Did you do that before he went into the
23 shower?

24 A No.

25 Q The first time you all had a physical

McBay v. Harrison County, Mississippi, by and through its Board of Supervisors, et al
Videotaped deposition of: Morgan Lee Thompson

August 14, 2009

Page 52

1 alteration was in the shower; is that right?

2 A Yes, sir.

3 Q Okay.

4 A I was kind of stunned that he did it, to
5 begin with. Like I said, he caught me off guard.

6 Q Did you ever have a chance to talk to
7 Mr. McBay after the incident?

8 A Yeah, yeah. When he --

9 Q First of all, let me just -- let's set up
10 the time frame. Approximately how long after the
11 incident did you all talk?

12 A Probably -- probably about four or five
13 hours --

14 Q Okay.

15 A -- afterwards.

16 Q What did you talk about?

17 A He had -- I don't remember what cell he was
18 in. But I remember him asking nicely, "Hey, man. Can
19 I use the phone?"

20 Wow. You know, that's a different version.
21 I walked up to him and I said, "Are you feeling a
22 little cool now?"

23 And he was like, "Yeah, yeah, yeah. I just
24 need to use the phone. Sorry about what happened."

25 Okay. You know, I brought him out. He

McBay v. Harrison County, Mississippi, by and through its Board of Supervisors, et al
Videotaped deposition of: Morgan Lee Thompson

August 14, 2009

Page 54

1 A We were doing 10- to 12-hour shifts.

2 Q How many days a week?

3 A Any where from five to six days a week.

4 Q And if you were adequately staffed, how
5 many hours would you be working?

6 A Probably 40, 45 hours a week.

7 MR. BRENDEL: That's all the questions I
8 have.

9

10 F U R T H E R E X A M I N A T I O N

11 BY MR. BUCHANAN:

12 Q Just a couple of follow-ups.

13 You said you took him into the shower, you
14 turned away. And when you turned away, he hit you, and
15 that surprised you.

16 A Yeah.

17 Q All right. And then hit you again?

18 A Uh-huh.

19 MR. BRENDEL: You have to say yes or no.

20 THE WITNESS: Yes, yes. I'm sorry.

21

22 BY MR. BUCHANAN:

23 Q And then you had no choice, once he hit you
24 again, but to hit him with a closed fist to the face.

25 A Yes, sir.